

William P. Harrington (WH-5262)  
Justin M. Gardner (JG-6169)  
BLEAKLEY PLATT & SCHMIDT, LLP  
One North Lexington Avenue  
White Plains, NY 10601  
(914) 949-2700  
*Attorneys for Defendants*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

~~~~~X

In the Matter of the Application of

MICHAEL SULLIVAN,

Petitioner/Plaintiff,

For a Judgment Pursuant to CPLR Article 78 and for a  
Declaratory Judgment and other relief

- against -

GEORGE HOEHMANN, Individually and as Town  
Supervisor of the Town of Clarkstown, Councilman FRANK  
BORELLI, Individually and as a Member of the Clarkstown  
Town Board, Councilwoman STEPHANIE HAUSER, as a  
Member of the Clarkstown Town Board, Councilman JOHN  
J. NOTO, Individually and as a Member of the Clarkstown  
Town Board, Councilwoman ADRIENNE D. CAREY,  
Individually and as a Member of the Clarkstown Town  
Board, the TOWN OF CLARKSTOWN and the TOWN  
BOARD OF THE TOWN OF CLARKSTOWN,

Respondents/Defendants.

~~~~~X

Respondents/Defendants GEORGE HOEHMANN, Individually and as Town Supervisor  
of the Town of Clarkstown, Councilman FRANK BORELLI, Individually and as a Member of  
the Clarkstown Town Board, Councilwoman STEPHANIE HAUSER, as a Member of the  
Clarkstown Town Board, Councilman JOHN J. NOTO, Individually and as a Member of the  
Clarkstown Town Board, Councilwoman ADRIENNE D. CAREY, Individually and as a

Case No.:

**NOTICE OF REMOVAL**

Member of the Clarkstown Town Board, the TOWN OF CLARKSTOWN and the TOWN BOARD OF THE TOWN OF CLARKSTOWN (collectively, “Defendants”), by their undersigned attorneys, William P. Harrington, Esq., Bleakley Platt & Schmidt, LLP, hereby remove this action from the Supreme Court of the State of New York, County of Rockland, to the United States District Court for the Southern District of New York on the following grounds:

1. On August 23, 2016, a civil action captioned: *In re MICHAEL SULLIVAN v. GEORGE HOEHMANN, Individually and as Town Supervisor of the Town of Clarkstown, Councilman FRANK BORELLI, Individually and as a Member of the Clarkstown Town Board, Councilwoman STEPHANIE HAUSER, as a Member of the Clarkstown Town Board, Councilman JOHN J. NOTO, Individually and as a Member of the Clarkstown Town Board, Councilwoman ADRIENNE D. CAREY, Individually and as a Member of the Clarkstown Town Board, the TOWN OF CLARKSTOWN and the TOWN BOARD OF THE TOWN OF CLARKSTOWN*, Index No. 2016-1260 (hereinafter “State Court Action”) was filed and is now pending in the Supreme Court of the State of New York, County of Rockland, a state court embraced within this judicial district. A copy of the Summons and Verified Petition received by Defendants herein in connection with Plaintiff’s filing is annexed hereto as Exhibit “A”.

2. In addition, the Defendants have received copies of the following pleadings filed with the New York Supreme Court:

- a. Order to Show Cause, Verified Petition, Supporting Affidavits and Exhibits, which are annexed hereto as Exhibit “B”; and
- b. Request for Judicial Intervention, which is annexed hereto as Exhibit “C”.

3. Defendants were served with the Summons and Verified Petition on August 23, 2016. Accordingly, this Notice of Removal is timely.

4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §§1331 & 1367, and is one which may be removed to this Court by defendants pursuant to the provisions of 28 U.S.C. §1441(a) & (c) in that:

- a. Plaintiff's Eighth Cause of Action for alleged retaliatory personnel action by public employer alleges a "violation of federal law including the First, Fifth and Fourteenth Amendments to the Federal Constitution;
- b. Plaintiff's Twelfth Cause of Action is pursuant to 42 U.S.C. §1983 and alleges purported "retaliation for and causally connected to the exercise of petitioner's First Amendment rights";
- c. Plaintiff seeks an award of "compensatory and exemplary damages, reasonable costs and expenses and attorney's fees pursuant to . . . 42 U.S.C. §§1983 & 1988; and
- d. The remainder of Plaintiff's claims, to the extent they do not arise under federal law, are so related to federal claims in the action that they form part of the same case or controversy in that all causes of action arise out of the same transactions or occurrences.

5. All Defendants are represented by the undersigned and join in this Notice of Removal.

6. There are no other parties who need to consent to the removal of this action.

7. Pursuant to 28 U.S.C. §1446(d), Defendants will file a copy of this Notice of Removal with the Supreme Court of the State of New York, County of Rockland, promptly after filing of this Notice of Removal in this Court, and will give written notice of this Notice of Removal to Plaintiff. A copy of the same is annexed hereto as Exhibit "D", and a Certificate of Service is annexed hereto as Exhibit "E".

**WHEREFORE**, Defendants respectfully provide Notice of Removal of the above entitled action to this Court.

Dated: White Plains, New York  
August 25, 2016

BLEAKLEY PLATT & SCHMIDT, LLP  
*Attorneys for Defendants*

BY: 

William P. Harrington (WH-5262)

Justin M. Gardner (JG-6169)

ONE NORTH LEXINGTON AVENUE  
WHITE PLAINS, NY 10601  
(914) 949-2700